

Office of the Secretary, HUD

§ 15.21

would be furthered by the requested disclosure; and, if so

(6) *The primary interest in disclosure:* Whether the magnitude of the identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is *primarily in the commercial interest of the requester.*

[53 FR 37549, Sept. 27, 1988]

§ 15.17 Charges for interest and for unsuccessful searches; Utilization of Debt Collection Act.

(a) *Charging interest.* HUD will begin assessing interest charges on an unpaid bill starting on the 31st day following the day on which the billing was sent. A fee received by HUD, even if not processed, will suffice to stay the accrual of interest. Interest will be at the rate prescribed in section 3717 of title 31 U.S.C. and will accrue from the date of the billing.

(b) *Charge for unsuccessful search.* Ordinarily no charge for search time will be assessed when the records requested are not found or when the records located are withheld as exempt. However, if the requester has been notified of the estimated cost of the search time and has been advised specifically that the requested records may not exist or may be withheld as exempt, fees shall be charged.

(c) *Use of Debt Collection Act of 1982.* When a requester has failed to pay a fee charged in a timely fashion (*i.e.*, within 30 days of the date of the billing), HUD may, under the authority of the Debt Collection Act and part 17, subpart C of this title, use consumer reporting agencies and collection agencies, where appropriate, to recover the indebtedness owed the Department.

[53 FR 37549, Sept. 27, 1988]

§ 15.18 Advance payments.

(a) HUD may not require a requester to make an advance payment, *i.e.*, payment before work is commenced or continued on a request, unless:

(1) HUD estimates or determines that allowable charges that a requester may be required to pay are likely to exceed \$250. Then, HUD will notify the requester of the likely cost and obtain satisfactory assurance of full payment

where the requester has a history of prompt payment of FOIA fees, or require an advance payment of an amount up to the full estimated charges in the case of requesters with no history of payment; or

(2) Where a requester has previously failed to pay a fee charged in a timely fashion (*i.e.*, within 30 days of the date of the billing), HUD may require the requester to pay the full amount owed plus any applicable interest as provided by § 15.17(a) or demonstrate that he has, in fact, paid the fees, and to make an advance payment of the full amount of the estimated fee before HUD begins to process a new request or a pending request from that requester.

(b) When HUD acts under paragraphs (a)(1) or (a)(2) of this section, the administrative time limits prescribed in subsection (a)(6) of the FOIA (*i.e.*, 10 working days from receipt of initial requests and 20 working days from receipt of appeals from initial denial, plus permissible extensions of these time limits) will begin only after HUD has received fee payments described above.

(c) Where it is anticipated that either the duplication fee individually, the search fee individually, or a combination of the two exceeds \$25.00 over and above the free search time and duplication costs, where applicable, and the requesting party has not indicated in advance a willingness to pay so high a fee, the requesting party shall be promptly informed of the amount of the anticipated fee or such portion thereof as can readily be estimated. The notification shall offer the requesting party the opportunity to confer with agency representatives for the purpose of reformulating the request so as to meet that party's needs at a reduced cost.

[53 FR 37549, Sept. 27, 1988]

§ 15.21 Exemptions authorized by 5 U.S.C. 552.

A requested record shall not be withheld from inspection or copying unless it both: Comes within one of the classes of records exempted by 5 U.S.C. 552; and there is need in the public interest to withhold it. In determining the scope of the classes of records described in paragraph (a) of this section,